

examination by the parties and opportunity shall be given to refute facts and arguments advanced on either side of the issues. A transcript shall be made of the oral evidence except to the extent that the substance thereof is stipulated for the record. All decisions shall be based upon the hearing record and written findings shall be made.

(5) *Consolidated or joint hearings.* In cases in which the same or related facts are asserted to constitute non-compliance with this part with respect to two or more Federal authorizations to which this part applies, or asserted to constitute noncompliance with this part and the regulations of one or more other Federal departments or agencies, the Secretary may, by agreement with such other departments or agencies, where applicable, provide for the conduct of consolidated or joint hearings, and for the application to such hearings of rules of procedure not inconsistent with this part. Final decisions in such cases, insofar as this part is concerned, shall be made in accordance with § 27.11.

§ 27.11 Decisions and notices.

(a) *Initial decision by an administrative law judge.* The administrative law judge shall make an initial decision and a copy of such initial decision shall be sent by registered mail, return receipt requested, to the recipient or applicant.

(b) *Review of the initial decision.* The applicant or recipient may file his exceptions to the initial decision, with his reasons therefor, with the Director, Office of Hearings and Appeals, within thirty (30) days of receipt of the initial decision. In the absence of exceptions, the Director, Office of Hearings and Appeals, on his own motion within forty-five (45) days after the initial decision, may notify the applicant or recipient that he will review the decision. In the absence of exceptions or a notice of review, the initial decision shall constitute the final decision subject to the approval of the Secretary pursuant to paragraph (f) of this section.

(c) *Decisions by the Director, Office of Hearings and Appeals.* Whenever the Director, Office of Hearings and Appeals, reviews the decision of an administra-

tive law judge pursuant to paragraph (b) of this section, the applicant or recipient shall be given reasonable opportunity to file with him briefs or other written statements of its contention, and a copy of the final decision of the Director, Office of Hearings and Appeals, shall be given to the applicant or recipient and to the complainant, if any.

(d) *Decisions on record where a hearing is waived.* Whenever a hearing is waived pursuant to § 27.10 (b)(1), a decision shall be made by the Director, Office of Hearings and Appeals, on the record and a copy of such decision shall be given in writing to the applicant or recipient and to the complainant, if any.

(e) *Rulings required.* Each decision of an administrative law judge or the Director, Office of Hearings and Appeals, shall set forth his ruling on each finding, conclusion, or exception presented, and shall identify the requirement or requirements imposed by or pursuant to this part with which it is found that the applicant or recipient has failed to comply.

(f) *Approval by Secretary.* Any final decision of an administrative law judge or of the Director, Office of Hearings and Appeals, which provides for the suspension or termination of, or the refusal to grant or continue a Federal authorization, or the imposition of any other sanction available under this part, shall promptly be transmitted to the Secretary, who may approve such decision, may vacate it, or remit or mitigate any sanction imposed.

(g) *Content of decisions.* The final decision may provide for suspension or termination of, or refusal to grant or continue a Federal authorization, in whole or in part, and may contain such terms, conditions, and other provisions as are consistent with and will effectuate the purposes of section 403 of Public Law 93-153 and implementing rules, regulations, and orders, including provisions designated to assure that no Federal authorization will be extended under title II of Public Law 93-153 to the applicant or recipient determined by such decision to be in default in its performance of an assurance given by it pursuant to section 403 and implementing rules, regulations, and orders or to have otherwise failed

§ 27.12

to comply with this part, unless and until it corrects its noncompliance and satisfies the Secretary that it will fully comply with this part.

(h) *Post termination decisions.* An applicant or recipient adversely affected by an order issued under paragraph (g) of this section shall be restored to full eligibility to receive the Federal authorization if it satisfies the terms and conditions of that order for such eligibility and if it provides reasonable assurance that it will fully comply with this part.

§ 27.12 Judicial review.

Action taken pursuant to this part is subject to judicial review.

§ 27.13 Effect on other regulations; forms and instructions.

(a) *Effect on other regulations.* Nothing in these regulations shall be deemed to supersede any of the following (including future amendments thereof):

(1) Executive Order 11246, as amended, and regulations therefor;

(2) Executive Order 11063 and regulations issued thereunder, or any other regulations or instructions insofar as such Order, regulations, or instructions prohibit discrimination on the ground of race, creed, color, national origin, or sex in any program or situation to which this part is inapplicable, or prohibit discrimination on any other ground.

(3) Regulations to effectuate title VI of the Civil Rights Act of 1964.

(b) *Forms and instructions.* The Department Compliance Officer may issue and make available to interested persons instructions and procedures for effectuating this part.

(c) *Supervision and coordination.* The Secretary may from time to time assign to such officials of the Department as he deems appropriate, or to officials of other departments or agencies of the Government with the consent of such departments or agencies, responsibilities in connection with the effectuation of the purposes of this part (other than responsibility for final decision as provided in § 27.11), including the achievement of effective coordination and maximum uniformity within the Department and within the Executive Branch of the Government

43 CFR Subtitle A (10–1–06 Edition)

in the application of this part. Any action taken, determination made, or requirement imposed by an official of another department or agency acting pursuant to an assignment of responsibility under this paragraph shall have the same effect as though such action had been taken by the Secretary of the Interior.

§ 27.14 Definitions.

As used in this part:

(a) The term *Secretary* means the Secretary of the Interior.

(b) The term *applicant* means one who submits an application for any Federal authorization to which this part applies.

(c) The term *recipient* means any entity or individual who receives a permit, right-of-way, public land order, or other Federal authorization granted or issued under title II of Public Law 93-153 and its agent or agents.

(d) The term *contract* means any agreement or arrangement between a recipient and any person (in which the parties do not stand in the relationship of an employer and an employee) in any way related to the activities of the recipient conducted under any permit, right-of-way, public land order, or other Federal authorization granted or issued under title II.

(e) The term *subcontract* means any agreement or arrangement between a contractor and any person (in which the parties do not stand in the relationship of an employer and an employee) in any way related to the performance of any one or more contracts as defined above.

(f) The Authorized Officer means the employee of the Department, designated to act on behalf of the Secretary pursuant to the Agreement and Grant of Right-of-Way for Trans-Alaska Pipeline or such other person to whom the Authorized Officer redelegates his authority pursuant to the delegation of authority to the Authorized Officer from the Secretary.

(g) The Department Compliance Officer means that officer of the Department of the Interior so designated by the Secretary.